

REMARKS

Claims 1-6, 8, 9, 11, 12, 15, 16, 18-23, 26-28, 31-43, 45, 49-57, and 59-62 are pending in this reissue application, of which only Claims 1-5 were included in the original patent. Previously added Claims 7, 10, 13, 14, 17, 24, 25, 29, 30, 44, 46-48, and 58 were canceled earlier in prosecution. Claims 1-3, 6, 9, 11, 12, 16, 23, 28, 33, 36-41, 43, 49-56, 59, and 61 are independent. Claims 6, 9, 11, 12, 16, 23, 28, 33, 36-41, 43, 49-56, 59, and 61 have been amended herein. Support for these amendments is found in the specification and drawings as originally filed (see generally the figures showing an electron-emitting device).¹

The Office Action states that Claims 1-6 are allowed, and Claims 8, 9, 11, 12, 15, 16, 18-23, 26-28, 31-43, 45 and 49-62 are rejected.

However, Claim 58 was canceled previously, and thus will not be further addressed in the following paragraphs. Also, although the Office Action states that Claim 6 is allowed, during a telephone conversation between the Examiner and the undersigned representative on or around March 16, 2005, the Examiner explained that the indicated allowability of Claim 6 in the Office Action is in error, as was the rejection of canceled Claim 58.² Of course, if Claim 6 is rejected in a next office action, that action must be made non-final.

^{1/} According to one embodiment of the invention, the layer can be a layer of fine particles in a dispersed state (between the electrodes), which is non-continuous. See, e.g., Fig. 37 and example 27 described in the application, and Fig. 17 to Fig. 27 and the accompanying description thereof in the application. Of course, broadly construed, the scope of the layer recited in the claims is not limited to only the foregoing embodiments, which are referred to herein merely for purposes of illustration only.

^{2/} The Examiner is sincerely thanked for the courtesies which she extended to the undersigned representative.

Claims 8, 9, 11, 12, 15, 16, 18-23, 26-28, 31-43, 45, 49-57, and 59-62 were rejected under 35 U.S.C. § 251 as being allegedly an improper recapture of subject matter that was previously surrendered. In particular, the Office Action has taken the position that these claims present an improper broadening aspect in that they omit the language "and in contact therewith" that was added allegedly "to overcome the rejection of [Claims 137 and 144]" in an earlier patent application from which the present reissue application stems (see pages 2 and 3 of the Office Action).

Without prejudice or disclaimer of subject matter, and without conceding correctness of the foregoing rejection, but rather strictly to obtain an earlier allowance and to expedite issuance, independent Claims 9, 11, 12, 16, 23, 28, 33, 36-41, 43, 49-56, 59, and 61 have been amended above to clarify that the layer at issue is *in contact with the electrodes*, so that current flows from one electrode to another electrode through the layer by a voltage applied between the first and second electrodes.³ Accordingly, the italicized subject matter is no longer omitted from those independent claims, and thus the Section 251 rejection of those claims and their corresponding dependent claims is believed to be overcome.

An amendment along the foregoing lines was discussed with the Examiner in a telephone conversation with the undersigned representative on June 8, 2005, and the Examiner tentatively indicated that such an amendment would overcome the Section 251 rejection. The Examiner is sincerely thanked for that indication and for her efforts in advancing the prosecution of this application.

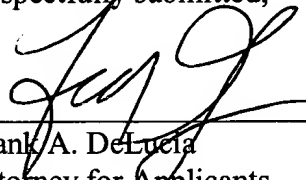
In view of all of the foregoing amendments and comments, all of the claims

^{3/} Independent Claim 6 has been similarly amended.

pending in this reissue application are believed allowable, and thus favorable reconsideration and early passage to issue of the application are respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank A. DeLuca', written over a horizontal line.

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